

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

GAIL J. GALLOWAY,	:	CIVIL ACTION NO. 1:18-CV-661
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
KATHLEEN KANE, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 17th day of January, 2019, upon consideration of the report (Doc. 19) of Magistrate Judge Martin C. Carlson, recommending that the court grant in part and deny in part defendants' motion (Doc. 16) to dismiss the complaint (Doc. 1) of *pro se* plaintiff Gail G. Galloway ("Galloway") pursuant to Federal Rule of Civil Procedure 12(b)(6), and it appearing that neither Galloway nor any defendant has objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should "afford some level of review to dispositive legal issues raised by the report," Henderson, 812 F.2d at 878; see also Taylor v. Comm'r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int'l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to "satisfy itself that there is no clear error on the face of the record," FED. R. CIV. P. 72(b), advisory committee notes, and, following an independent review of the

record, the court being in agreement with Judge Carlson's recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 19) of Magistrate Judge Carlson is ADOPTED.
2. Defendants' motion (Doc. 16) to dismiss is GRANTED in part and DENIED in part as follows:
 - a. The motion (Doc. 16) is GRANTED to the extent that Galloway's claim pursuant to the Racketeer Influenced Corrupt Organizations Act ("RICO") is DISMISSED without prejudice.
 - b. The motion (Doc. 16) is DENIED in all other respects.
3. Galloway is granted leave to amend his RICO claim within twenty (20) days of the date of this order.
4. Any amended pleading filed pursuant to paragraph 3 shall be filed to the same docket number as the instant action, shall be entitled "First Amended Complaint," and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the complaint (Doc. 1) hereinabove dismissed. In the absence of a timely-filed amended complaint, the above-captioned action shall proceed on Galloway's claims for false arrest and malicious prosecution.
5. This matter is REMANDED to Magistrate Judge Carlson for further pretrial management.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania